

AMENDED IN SENATE AUGUST 30, 2005  
AMENDED IN SENATE AUGUST 15, 2005  
AMENDED IN SENATE JULY 6, 2005  
AMENDED IN SENATE JUNE 23, 2005  
AMENDED IN ASSEMBLY MAY 17, 2005  
AMENDED IN ASSEMBLY MAY 3, 2005  
AMENDED IN ASSEMBLY APRIL 25, 2005  
AMENDED IN ASSEMBLY APRIL 19, 2005  
AMENDED IN ASSEMBLY APRIL 6, 2005  
AMENDED IN ASSEMBLY MARCH 17, 2005  
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 371**

**Introduced by Assembly Member Goldberg**

February 11, 2005

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An act to amend Section 13260 of, and to add Sections 13555.5 and 13557 to, the Water Code, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 371, as amended, Goldberg. Water recycling.

(1) The Porter-Cologne Water Quality Control Act requires certain entities required to file a waste discharge report with the State Water Resources Control Board to submit an annual fee according to a fee schedule established by the state board.

This bill would require the state board, for the purpose of establishing the amount of a fee that may be imposed upon any publicly owned treatment works, to structure the fee schedule to provide incentives for water recycling to facilitate the state's goal of maximizing water recycling.

(2) Existing law regulates recycled water.

This bill would require a recycled water producer to notify the Department of Transportation and the Department of General Services if the recycled water producer determines that, within 10 years, it proposes to provide recycled water for use for state landscape irrigation that meets certain conditions and would require all pipe installed by those state agencies for landscape irrigation within the area identified by the notice to meet prescribed requirements.

The bill, *subject to the appropriation of funds for that purpose*, would require the Department of Water Resources, ~~on or before July 1, 2008~~, in consultation with the State Department of Health Services, to adopt and submit to the California Building Standards Commission *regulations in the form of* a state version of Appendix J of the Uniform Plumbing Code to provide design standards to safely plumb buildings with both potable and recycled water systems. The bill would require the Department of Housing and Community Development to submit to the commission, on or before July 1, 2008, an amendment to that state version to remove the skull and crossbones symbol for recycled water *and replace it with an international symbol for recycled water*.

(3) This bill would require that its provisions be known as the Water Recycling Act of 2005. The bill would make related legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as  
2 the Water Recycling Act of 2005.

3 SEC. 2. (a) The Legislature hereby finds and declares that  
4 the Recycled Water Task Force was convened pursuant to  
5 Section 13578 of the Water Code and evaluated the current  
6 framework of state and local rules, regulations, ordinances, and

1 permits to identify the opportunities for, and obstacles or  
2 disincentives to, increasing the safe use of recycled water.

3 (b) It is the intent of the Legislature to implement the  
4 recommendations from the Recycled Water Task Force by  
5 enacting the Water Recycling Act of 2005, as a means to help the  
6 state meet its goal of recycling 1,000,000 acre-feet of water per  
7 year by 2010 in accordance with Section 13577 of the Water  
8 Code.

9 SEC. 3. Section 13260 of the Water Code is amended to read:

10 13260. (a) All of the following persons shall file with the  
11 appropriate regional board a report of the discharge, containing  
12 the information which may be required by the regional board:

13 (1) Any person discharging waste, or proposing to discharge  
14 waste, within any region that could affect the quality of the  
15 waters of the state, other than into a community sewer system.

16 (2) Any person who is a citizen, domiciliary, or political  
17 agency or entity of this state discharging waste, or proposing to  
18 discharge waste, outside the boundaries of the state in a manner  
19 that could affect the quality of the waters of the state within any  
20 region.

21 (3) Any person operating, or proposing to construct, an  
22 injection well.

23 (b) No report of waste discharge need be filed pursuant to  
24 subdivision (a) if the requirement is waived pursuant to Section  
25 13269.

26 (c) Every person subject to subdivision (a) shall file with the  
27 appropriate regional board a report of waste discharge relative to  
28 any material change or proposed change in the character,  
29 location, or volume of the discharge.

30 (d) (1) (A) Each person who is subject to subdivision (a) or  
31 (c) shall submit an annual fee according to a fee schedule  
32 established by the state board.

33 (B) The total amount of annual fees collected pursuant to this  
34 section shall equal that amount necessary to recover costs  
35 incurred in connection with the issuance, administration,  
36 reviewing, monitoring, and enforcement of waste discharge  
37 requirements and waivers of waste discharge requirements.

38 (C) Recoverable costs may include, but are not limited to,  
39 costs incurred in reviewing waste discharge reports, prescribing  
40 terms of waste discharge requirements and monitoring

1 requirements, enforcing and evaluating compliance with waste  
2 discharge requirements and waiver requirements, conducting  
3 surface water and groundwater monitoring and modeling,  
4 analyzing laboratory samples, and reviewing documents prepared  
5 for the purpose of regulating the discharge of waste, and  
6 administrative costs incurred in connection with carrying out  
7 these actions.

8 (D) In establishing the amount of a fee that may be imposed  
9 on any confined animal feeding and holding operation pursuant  
10 to this section, including, but not limited to, any dairy farm, the  
11 state board shall consider all of the following factors:

12 (i) The size of the operation.

13 (ii) Whether the operation has been issued a permit to operate  
14 pursuant to Section 1342 of Title 33 of the United States Code.

15 (iii) Any applicable waste discharge requirement or  
16 conditional waiver of a waste discharge requirement.

17 (iv) The type and amount of discharge from the operation.

18 (v) The pricing mechanism of the commodity produced.

19 (vi) Any compliance costs borne by the operation pursuant to  
20 state and federal water quality regulations.

21 (vii) Whether the operation participates in a quality assurance  
22 program certified by a regional water quality control board, the  
23 state board, or a federal water quality control agency.

24 (E) For the purpose of establishing the amount of a fee that  
25 may be imposed upon any publicly owned treatment works  
26 pursuant to this section, the state board shall structure the fee  
27 schedule to provide incentives for water recycling to facilitate the  
28 state's goal of maximizing water recycling.

29 (2) (A) Subject to subparagraph (B), any fees collected  
30 pursuant to this section shall be deposited in the Waste Discharge  
31 Permit Fund, which is hereby created. The money in the fund is  
32 available for expenditure by the state board, upon appropriation  
33 by the Legislature, solely for the purposes of carrying out this  
34 division.

35 (B) (i) Notwithstanding subparagraph (A), the fees collected  
36 pursuant to this section from stormwater dischargers that are  
37 subject to a general industrial or construction stormwater permit  
38 under the national pollutant discharge elimination system  
39 (NPDES) shall be separately accounted for in the Waste  
40 Discharge Permit Fund.

1 (ii) Not less than 50 percent of the money in the Waste  
2 Discharge Permit Fund that is separately accounted for pursuant  
3 to clause (i) is available, upon appropriation by the Legislature,  
4 for expenditure by the regional board with jurisdiction over the  
5 permitted industry or construction site that generated the fee to  
6 carry out stormwater programs in the region.

7 (iii) Each regional board that receives money pursuant to  
8 clause (ii) shall spend not less than 50 percent of that money  
9 solely on stormwater inspection and regulatory compliance issues  
10 associated with industrial and construction stormwater programs.

11 (3) Any person who would be required to pay the annual fee  
12 prescribed by paragraph (1) for waste discharge requirements  
13 applicable to discharges of solid waste, as defined in Section  
14 40191 of the Public Resources Code, at a waste management unit  
15 that is also regulated under Division 30 (commencing with  
16 Section 40000) of the Public Resources Code, shall be entitled to  
17 a waiver of the annual fee for the discharge of solid waste at the  
18 waste management unit imposed by paragraph (1) upon  
19 verification by the state board of payment of the fee imposed by  
20 Section 48000 of the Public Resources Code, and provided that  
21 the fee established pursuant to Section 48000 of the Public  
22 Resources Code generates revenues sufficient to fund the  
23 programs specified in Section 48004 of the Public Resources  
24 Code and the amount appropriated by the Legislature for those  
25 purposes is not reduced.

26 (e) Each person who discharges waste in a manner regulated  
27 by this section shall pay an annual fee to the state board. The  
28 state board shall establish, by regulation, a timetable for the  
29 payment of the annual fee. If the state board or a regional board  
30 determines that the discharge will not affect, or have the potential  
31 to affect, the quality of the waters of the state, all or part of the  
32 annual fee shall be refunded.

33 (f) (1) The state board shall adopt, by emergency regulations,  
34 a schedule of fees authorized under subdivision (d). The total  
35 revenue collected each year through annual fees shall be set at an  
36 amount equal to the revenue levels set forth in the Budget Act for  
37 this activity. The state board shall automatically adjust the annual  
38 fees each fiscal year to conform with the revenue levels set forth  
39 in the Budget Act for this activity. If the state board determines  
40 that the revenue collected during the preceding year was greater

1 than, or less than, the revenue levels set forth in the Budget Act,  
2 the state board may further adjust the annual fees to compensate  
3 for the overcollection and undercollection of revenue.

4 (2) The emergency regulations adopted pursuant to this  
5 subdivision, any amendment thereto, or subsequent adjustments  
6 to the annual fees, shall be adopted by the state board in  
7 accordance with Chapter 3.5 (commencing with Section 11340)  
8 of Part 1 of Division 3 of Title 2 of the Government Code. The  
9 adoption of these regulations is an emergency and shall be  
10 considered by the Office of Administrative Law as necessary for  
11 the immediate preservation of the public peace, health, safety,  
12 and general welfare. Notwithstanding Chapter 3.5 (commencing  
13 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
14 Government Code, any emergency regulations adopted by the  
15 state board, or adjustments to the annual fees made by the state  
16 board pursuant to this section, shall not be subject to review by  
17 the Office of Administrative Law and shall remain in effect until  
18 revised by the state board.

19 (g) The state board shall adopt regulations setting forth  
20 reasonable time limits within which the regional board shall  
21 determine the adequacy of a report of waste discharge submitted  
22 under this section.

23 (h) Each report submitted under this section shall be sworn to,  
24 or submitted under penalty of perjury.

25 (i) The regulations adopted by the state board pursuant to  
26 subdivision (f) shall include a provision that annual fees shall not  
27 be imposed on those who pay fees under the national pollutant  
28 discharge elimination system until the time when those fees are  
29 again due, at which time the fees shall become due on an annual  
30 basis.

31 (j) Any person operating or proposing to construct an oil, gas,  
32 or geothermal injection well subject to paragraph (3) of  
33 subdivision (a), shall not be required to pay a fee pursuant to  
34 subdivision (d), if the injection well is regulated by the Division  
35 of Oil and Gas of the Department of Conservation, in lieu of the  
36 appropriate California regional water quality control board,  
37 pursuant to the memorandum of understanding, entered into  
38 between the state board and the Department of Conservation on  
39 May 19, 1988. This subdivision shall remain operative until the

1 memorandum of understanding is revoked by the state board or  
2 the Department of Conservation.

3 (k) In addition to the report required by subdivision (a), before  
4 any person discharges mining waste, the person shall first submit  
5 both of the following to the regional board:

6 (1) A report on the physical and chemical characteristics of the  
7 waste that could affect its potential to cause pollution or  
8 contamination. The report shall include the results of all tests  
9 required by regulations adopted by the board, any test adopted by  
10 the Department of Toxic Substances Control pursuant to Section  
11 25141 of the Health and Safety Code for extractable, persistent,  
12 and bioaccumulative toxic substances in a waste or other  
13 material, and any other tests that the state board or regional board  
14 may require, including, but not limited to, tests needed to  
15 determine the acid-generating potential of the mining waste or  
16 the extent to which hazardous substances may persist in the  
17 waste after disposal.

18 (2) A report that evaluates the potential of the discharge of the  
19 mining waste to produce, over the long term, acid mine drainage,  
20 the discharge or leaching of heavy metals, or the release of other  
21 hazardous substances.

22 (l) Except upon the written request of the regional board, a  
23 report of waste discharge need not be filed pursuant to  
24 subdivision (a) or (c) by a user of recycled water that is being  
25 supplied by a supplier or distributor of recycled water for whom  
26 a master recycling permit has been issued pursuant to Section  
27 13523.1.

28 SEC. 4. Section 13555.5 is added to the Water Code, to read:

29 13555.5. (a) If a recycled water producer determines that  
30 within 10 years the recycled water producer proposes to provide  
31 recycled water for use for state landscape irrigation that meets all  
32 of the conditions set forth in Section 13550, the recycled water  
33 producer shall so notify the Department of Transportation and the  
34 Department of General Services, and shall identify in the notice  
35 the area that is eligible to receive the recycled water, and the  
36 necessary infrastructure that the recycled water producer or the  
37 retail water supplier proposes to provide, to facilitate delivery of  
38 the recycled water.

39 (b) If notice has been provided pursuant to subdivision (a), all  
40 pipe installed by the Department of Transportation or the

1 Department of General Services for landscape irrigation within  
2 the identified area shall be of the type necessary to meet the  
3 requirements of Section 116815 of the Health and Safety Code  
4 and applicable regulations.

5 SEC. 5. Section 13557 is added to the Water Code, to read:

6 13557. (a) ~~On or before July 1, 2008, the~~ *The* department, in  
7 consultation with the State Department of Health Services, shall  
8 adopt and submit to the California Building Standards  
9 Commission a state version of Appendix J of the Uniform  
10 Plumbing Code adopted by the International Association of  
11 Plumbing and Mechanical Officials to provide design standards  
12 to safely plumb buildings with both potable and recycled water  
13 systems.

14 *(b) The department shall adopt regulations pursuant to*  
15 *subdivision (a) only if the Legislature appropriates funds for that*  
16 *purpose.*

17 ~~(b)–~~

18 *(c) On or before July 1, 2008, the Department of Housing and*  
19 *Community Development shall submit to the California Building*  
20 *Standards Commission an amendment to the state plumbing code*  
21 *adopted pursuant to subdivision (a) to remove the skull and*  
22 *crossbones symbol for recycled water and replace it with an*  
23 *international symbol for recycled water.*